

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**RONALD ADAMS,**

Plaintiff,

v.

**MICHAEL J. ASTRUE,** Commissioner of  
Social Security,

Defendant.

Case No.: 3:10-cv-170-AC

**OPINION AND ORDER ADOPTING  
FINDINGS AND RECOMMENDATIONS**

Merrill Schneider  
SCHNEIDER LAW OFFICES  
PO Box 14490  
Portland, OR 97293

Of Attorneys for Plaintiff

Amanda Marshall  
Adrian L. Brown  
U.S. ATTORNEY'S OFFICE  
District of Oregon  
1000 S.W. Third Ave.  
Suite 600  
Portland, OR 97204

L. Jamala Edwards  
SOCIAL SECURITY ADMINISTRATION  
Office of the General Counsel  
701 Fifth Ave. Ste. 2900, M/S 221A  
Seattle, WA 98104

Of Attorneys for Defendant

**SIMON, District Judge.**

On December 1, 2011, Magistrate Judge John V. Acosta issued findings and recommendations (#17) in the above-captioned case. Judge Acosta recommended that the court affirm the decision of the Commissioner of Social Security finding Plaintiff not disabled. No party has filed objections.

Under the Federal Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” Federal Magistrates Act, 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).


If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, “[t]here is no indication that Congress, in enacting [the Magistrates Act], intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Acosta’s findings and recommendations (#17) for clear

error on the face of the record. No such error is apparent. Therefore the court orders that Judge Acosta's findings and recommendations (#17) is ADOPTED.

Dated this 9<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
Michael H. Simon  
United States District Judge